

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7866 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No.

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NAVINBHAI THOBHANBHAI BHINDORA

Versus

STATE OF GUJARAT

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Appearance:

M/S THAKKAR ASSOC. for Petitioner

MS HARSHA DEVANI, AGP, for Respondent No. 1, 2

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 24/12/98

ORAL JUDGEMENT

Rule. Ms.Harsha Devani, learned Assistant Government Pleader waives service of rule on behalf of the respondents. At the request of the learned Advocates, this petition is taken up for final hearing to-day.

The petitioner by way of this petition is challenging the order dated 3-7-98 passed by the Regionadl Transport Officer and Tax Officer for the

recovery of vehicle tax retrospectively and also imposing penalty of 25% of the tax under demand. It is the case of the petitioner that the petitioner, who is the owner of Motor Vehicle Bearing Registration No. GJ-3-T9688 has submitted necessary forms for registering vehicle under non-use since the petitioner was not using the vehicle with effect from 1-4-96 onwards and even though the said forms have been accepted by the respondent authority, respondent No.2 has issued the impugned order.

Mr. Pahwa learned Advocate for the petitioner contended that the impugned order is passed without hearing the petitioner and, therefore, the same is in violation of the principles of natural justice., Since this fact is not controverted by the respondent, only order that can be passed at this stage is to quash and set aside the impugned order and to direct the respondent No.2 to take decision afresh after hearing the petitioner. Mr. Pahwa learned Advocate for the petitioner has submitted that the petitioner has accepted his liability to pay the amount of Rs.84294/being the amount of tax from 1-6-95 to 31-3-96 and has shown willingness to pay the same by April,1999. If that is so, the respondent shall accept the said proposal and consider the question regarding the amount of penalty and the amount of tax with effect from 1-4-98 to 30-6-98 and when the petitioner is again heard by respondent No.2. I am told that the decision has already been taken by respondent No.2 while rejecting the application dated 24th March 1998 for declaring non-use of the vehicle in question for the period between 1-4-98 to 31-3-99. It will therefore be open for the respondent to again apply in the prescribed form to the said respondent No.2. On behalf of the petitioner it is stated that the petitioner will file necessary application in the prescribed form within ten days from to-day.

In view of the above, this petition is partly allowed. The impugned order dated 3-7-98 is set aside. Respondent No.2 is directed to decide the application that may be filed by the petitioner and shall take decision afresh in accordance with law after giving an opportunity of hearing to the petitioner within four weeks from the date of receipt of the application from the petitioner. Rule is made absolute to the aforesaid extent with no order as to costs.

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